THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.13392 of 2001

ORDER:

This writ petition is filed seeking a Mandamus declaring the proceedings initiated under Section 71 of the A.P. Cooperative Societies Act, 1964 (for short 'the Act') as illegal and arbitrary and consequently direct the first respondent not to proceed further pursuant to notice issued on 15.6.2001 under Section 71 of the Act.

It appears, petitioner has availed overdraft facility against Account No.18/OD-552/2001. When the petitioner failed to repay the loan amount, the respondents have initiated recovery proceedings and obtained Certificate under Section 71(1) of the Act on 26.6.2001 and in pursuance of the same, execution proceedings were taken up and properties of the petitioner were sought to be attached. At this stage, the present writ petition is filed.

The learned counsel for petitioner strenuously contended that absolutely no enquiry as required under Section 71 of the Act was conducted while issuing the Certificate. Neither the petitioner was put on any notice nor any enquiry was conducted as required under law. Further, there is no reasoned order passed by the respondents. A mere proforma certificate was issued under Section 71(1) of the Act and no adjudication had taken place and no reasons have been furnished for issuing the said certificate.

A detailed counter affidavit has been filed by the respondents denying the allegations made by the petitioner.

The respondents except stating that after following due procedure as contemplated under Section 71 of the Act by giving opportunity to the petitioner, passed the orders, no details are

forthcoming as to when the notice was served on the petitioner and when the authority has adjudicated the matter. I am of the opinion that the very certificate shows that no adjudication as required under law has taken place. Thus, it is clear that no notice of any kind was issued to the petitioner before issuing Certificate under Section 71 of the Act. Therefore, the impugned order suffers from gross violation of principles of natural justice.

In the result, the writ petition is allowed and the order under challenge is set aside. However, this will not preclude the respondents from taking appropriate steps after issuing notice to the petitioner as required under law. There shall be no order as to costs.

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C.V.RAMULU, J

Date: 4.12.2006

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IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.13392 of 2001

Dated: 4th December, 2006

Between:

M/s Bhuvaneswari Investment Pvt. Ltd.,
St.No.5, Hardikarbagh, Himayathnagar,
Hyderabad, rep. by Director S.Ashok Kumar. .. Petitioner

and

The Deputy Registrar of Cooperative
Societies/Officer on Special Duty,
M.J.Road, Hyderabad & another.

.. Respondents